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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0980]

RIN 1625-AA00

Eighth Coast Guard District Annual Safety Zones; New Year's Eve Celebration/City of Mobile; Mobile Channel; Mobile, AL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will enforce the City of Mobile New Year's Eve Celebration safety zone in the Mobile Channel, Mobile, AL from 11:30 p.m. December 31, 2013 until 12:30 a.m. January 1, 2014. This safety zone has been implemented in past years but the fireworks display will move to a new location in the Mobile Channel beginning with the December 31, 2013 display. This safety zone is necessary for the safeguard of participants and spectators, including all crews, vessels, and persons on navigable waters during the City of Mobile New Year's Eve Celebration fireworks display. During the enforcement period, entry into, transiting or anchoring in the Safety Zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically

authorized by the Captain of the Port Mobile or a designated representative.

DATES: The safety zone is effective from 11:30 p.m. December 31, 2013 until 12:30 a.m. January 1, 2014.

FOR FURTHER INFORMATION CONTACT:

If you have questions on this temporary rule, call or e-mail LT Stanley A. Tarrant, Coast Guard Sector Mobile, Waterways Management Division; telephone (251) 441-5940, e-mail Stanley.A.Tarrant@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR	Code of Federal Regulations
COTP	Captain of the Port

A. Regulatory History and Information

Through a direct final rulemaking with a request for comments, the Coast Guard amended and updated the safety zones under 33 CFR 165.801 to incorporate the numerous recurring safety zones related to events and fireworks displays held on or around navigable waters within the Eighth Coast Guard District. No comments to the direct final rule were received and the May 30, 2012 effective date for the amendments and updates was confirmed in the Federal

Register (77 FR 28766) on May 16, 2012. The City of Mobile New Year's Eve Celebration and safety zone was included in that update as a safety zone under 33 CFR part 165.801; Table 1, Table No. 150; Sector Mobile No. 9. This temporary final rule changes the location where the safety zone will be enforced.

The Coast Guard is issuing this temporary final rule without a full 30 days notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. On November 5, 2013 the Coast Guard received notice that the City of Mobile would be putting on its New Year's Eve Celebration fireworks display at a new location located approximately one-half mile from the location listed in the current safety zone under 33 CFR 165.801. This notice did not allow for the full NPRM process. The New Year's Eve Celebration and fireworks display has been and continues to be advertised to the local communities; therefore, delaying or foregoing the safety

zone to provide notice and comment opportunity for a minimal change in location would be unnecessary and impracticable. Additionally, making the new location permanent will be part of an upcoming rulemaking updating the safety zones listed in 33 CFR 165.801. That rulemaking will offer notice and opportunity to comment on updates to this and other recurring safety zones for future occurrences.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than a full 30 days after publication in the Federal Register.

B. Basis and Purpose

This temporary final rule is issued under authority of 5 U.S.C. 552 (a); 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1. The City of Mobile applied for a Marine Event permit on November 5, 2013 related to the vessels and navigational needs resulting from and supporting their annual New Year's Eve Celebration fireworks display. The location for the 2013 display differs from the location listed in 33 CFR part 165.801; Table 1, Table No. 150; Sector Mobile No. 9. The new 2013 location is in the Mobile Channel between the Arthur R. Outlaw Convention Center and Cooper Riverside Park. This

location replaces the published coordinates found in 33 CFR part 165.801; Table 1. The COTP Mobile will establish and enforce a safety zone extending 200 yards in all directions from the fireworks display barge located in the Mobile Channel between the Arthur R. Outlaw Convention Center and Cooper Riverside Park to protect persons and vessels during the City of Mobile New Year's Eve Celebration fireworks display.

The COTP anticipates minimal impact on vessel traffic due to this change of location. However, this safety zone is deemed necessary for the protection of life and property within the COTP Mobile zone.

C. Discussion of the Temporary Final Rule

The Coast Guard will enforce a Safety Zone for the annual City of Mobile New Year's Eve Celebration fireworks display listed in 33 CFR 165.801 Table 1, Table No. 150; Sector Mobile, No. 9 from 11:30 p.m. December 31, 2013 until 12:30 a.m. January 1, 2014. The safety zone will include all waters extending 200 yards in all directions from the fireworks display barge located in the Mobile Channel between the Arthur R. Outlaw Convention Center and Cooper Riverside Park.

Under the provisions of 33 CFR 165.801, entry into the safety zone listed above is prohibited unless authorized by the Captain of the Port or a designated representative.

Persons or vessels desiring to enter into or pass through the Safety Zone must request permission from the Captain of the Port or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative.

In addition to this temporary final rule in the Federal Register, the Coast Guard will provide the maritime community with advance notification of this enforcement period and location via Local Notice to Mariners and Marine Information Broadcasts.

If the COTP Mobile or a designated representative determines that the safety zone need not be enforced for the full duration stated in this rule, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563,

Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule establishes a temporary safety zone extending 200 yards in all directions from a fireworks display barge located in the Mobile Channel between the Arthur R. Outlaw Convention Center and Cooper Riverside Park from 11:30 p.m. December 31, 2013 until 12:30 a.m. January 1, 2014. The impacts on navigation will be limited to ensuring the safety of persons and vessels in the area during the fireworks display.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Mobile Channel between the

Arthur R. Outlaw Convention Center and Cooper Riverside Park from 11:30 p.m. December 31, 2013 until 12:30 a.m. January 1, 2014. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule is in place for one hour on New Year's Eve, 2013. Notifications to the marine community will be made through Local Notice to Mariners and Marine Information Broadcasts.

Notices of changes to the safety zone and effective times will also be made as necessary. Deviation from the restrictions may be requested from the COTP Mobile or designated representative and will be considered on a case-by-case basis.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business

and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to

coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045,

Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969

(NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist and a categorical exclusion determination will be made available as indicated under the ADDRESSES section.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. A new temporary § 165.T08-0980 is added to read as follows:

§ 165.T08-0980 Safety Zone; New Year's Eve Celebration/City of Mobile; Mobile Channel; Mobile, AL

(a) Location. The following area is a safety zone: all waters extending 200 yards in all directions from the fireworks display barge located in the Mobile Channel between the Arthur R. Outlaw Convention Center and Cooper Riverside Park.

(b) Effective dates. This safety zone is effective and enforceable from 11:30 p.m. December 31, 2013 until 12:30 a.m. January 1, 2014.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) Persons or vessels desiring to enter into or passage through the zone must request permission from the Captain of the Port Mobile or a designated representative. They may be contacted on VHF-FM channels 16 or by telephone at 251-441-5976.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative.

(d) Informational Broadcasts. The Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: November 27, 2013

S. WALKER
Captain, U. S. Coast Guard
Captain of the Port Mobile

[FR Doc. 2013-30382 Filed 12/20/2013 at 8:45 am; Publication Date: 12/23/2013]